

If a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115(b). (This is a GIL).

April 19, 2000

Dear Xxxxx:

This letter is in response to your letter dated March 29, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

I am trying to find an answer to a tax-related question! I hope this letter will explain my problem, and you can find the answer for me.

I am a wholesale distributor of motor fuels here in Illinois; my office is located within the CITY. The questions I need answered are listed below.

1) On my sales of motor fuels, am I legally required to pay the 1% CITY home rule sales tax, when the motor fuel originates outside the CITY and the customer takes possession outside the CITY? This motor fuel is delivered by transport truck directly to the customer after it is picked up at the terminal located outside the CITY. The sale is made at the time of delivery, but we generate the invoice at our office located in the CITY.

2) On my sales from my smaller Tank Wagon Trucks of motor fuel or, (Farm fuel) to customers located outside the CITY.

If the customer takes possession outside the CITY, and the sale is not made until the product is put into their storage, which is located outside the CITY, am I legally required to pay the CITY 1% home rule tax?

The motor fuel is stored at my facility located in the CITY, but the invoice is first generated in the cab of the truck after the delivery has been made. The transaction is posted at our office located in the CITY.

If you know the answers to my questions please inform me in writing so I may let my tax preparers know how to report these sales.

The enclosed copy of 86 Ill. Adm. Code 270.115 explains the manner in which one determines if a local tax, and which local tax, is applicable to a transaction. As the regulation explains, local taxes are incurred when sales occur within a jurisdiction imposing a local tax. The Department has determined that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 270.115(b), enclosed.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. If a purchase order is accepted outside the state, but the property being sold is located in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 270.115(b)(3)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes.

If an order is placed in one Illinois location (e.g. Rockford) while the property is located in another Illinois location (e.g. Chicago) the Department will consider the place at which the order is accepted to govern for purposes of imposition of the local taxes.

In your first situation, if the purchase order is accepted in CITY, then the CITY tax rate would apply. However, if the purchase order was accepted outside CITY, then the CITY tax rate would not apply. It is unclear from your letter where the purchase order is accepted. However, you state that the invoice is generated in CITY. If the generation of the invoice is acceptance of the purchase order then the CITY tax rate applies.

In your second scenario, the inventory is located in CITY and the invoice is posted in CITY. However, the invoice is first generated in the truck at the place of delivery. The same principles stated above apply to this transaction. It is unclear from your letter where the purchase order is accepted. However, you state that the invoice is generated in the truck cab. If generation of the invoice constitutes acceptance of the purchase order and it is generated outside CITY, then the CITY tax rate will not apply.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

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